

REMARKS / ARGUMENTS

This amendment is submitted in full response to the outstanding Office Action dated September 10, 2010, wherein the Examiner has finally rejected claims 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Jorgensen (U.S. Patent No. 5,439,473) in view of Czernecki et al. (U.S. Patent No. 5,356,420).

For the reasons set forth in greater detail hereinafter, the outstanding rejection is respectfully traversed.

Applicant's Claimed Invention.

As now defined in the single, amended independent claim 14, Applicant's invention is directed to a lancet device comprising a housing, a lancet movably disposed within the open interior of the housing and including a piercing tip. Biasing assembly is disposed in biasing relation to the lancet and is connected between the housing and the lancet. A cocking seat includes an open interior and is detached from the lancet and movable in driving relation thereto. Further, an engagement assembly includes an engagement member and a retention member, wherein the engagement member is mounted on the lancet and movable both

with the lancet and relative thereto. In turn, the retention member, also being defined as a part of the engagement assembly, is mounted on the cocking seat and is disposed in continuous driving engagement with the engagement member during a concurrent, forced movement of the lancet and the cocking seat into said open interior of the housing.

In addition to the engagement assembly including both of the aforementioned engagement member and retention member, it also comprises a single use breakable hinge detachably connecting the engagement member to a remainder of the lancet. The breakable hinge releasably disposes the cocking seat into said continuous driving engagement with said engagement member and the lancet.

A release element is fixedly secured to the housing and is disposable into interruptive engagement with the engagement member and deforming relation with the breakable hinge. The breakable hinge is even more specifically defined as including a reduced thickness section structured to break upon the interruptive engagement of the release element with the engagement member and the release element being in deforming relation to the breakable hinge. As a result, the biasing assembly serves to bias and force the lancet from the open

interior of the housing into and through the open interior of the cocking seat upon disengagement between the lancet and the cocking seat.

References of Record- Issue Under 35 U.S.C. 103.

In applying the above noted outstanding rejection, the Examiner relies primarily on the reference of record to Jorgensen. As interpreted by the Examiner, the Jorgensen reference allegedly discloses a housing 30 and a cocking seat 10. Moreover, the Examiner contends that the Jorgensen reference includes an engagement assembly 39 disposed on the lancet and movable with and relative to the lancet, wherein an engagement member 40 and a release element 36 are also provided. The Examiner further contends the Jorgensen reference discloses a retention member defined by the interacting of member 40 and surface 17 of the engagement member and cocking seat respectively.

However, the Examiner admits that Jorgensen fails to disclose a breakable hinge as defined in Applicant's claimed invention. In an attempt to overcome this deficiency of the Jorgensen reference, the Examiner contends that the Czernecki et al. reference teaches breakable engagement members 11. As a

result, the Examiner's overall contention is that it would have been obvious to a skilled artisan to have made the hinge area or arms 39 of Jorgensen breakable in the manner taught by Czernecki et al. to prevent reuse of the Jorgensen device.

Applicant respectfully disagrees with the Examiner's interpretation of the Jorgensen and Czernecki et al. references considered either singularly or in combination with one another and further suggests that the exclusion of a breakable hinge in the Jorgensen structure would be to indulge in the forbidden practice of hindsight knowledge and application of Applicant's invention.

More specifically, as now defined, the retention member of Applicant's invention is mounted on the cocking seat and is disposed in continuous driving engagement with the engagement member during a concurrent forced movement of the lancet and the cocking seat into said open interior of said housing. In contrast, neither Jorgensen nor Czernecki et al. disclose such structure. The Examiner's attention is directed to column 2 of the Jorgensen reference wherein it is clearly emphasized that part 30 (housing) is movable longitudinally along the lancet housing 10 (cocking seat). As a result, the lower end 38 of block 37 carries two arms 39 (none of which disclose a reduced

thickness portion along the length thereof) defined by a protruding hook 40.

Therefore, if the Examiner continues to argue that the retention member is defined by interaction of the member 40 and surface 17 of the cocking seat in the Jorgensen reference, it is clear that **such a retention member is not disposed in continuous driving engagement with the engagement member during concurrent force movement of the lancet and the cocking seat into the open interior of the housing.** More specifically, neither Jorgensen nor Czernecki et al. disclose continuous driving engagement of a retention member with an engagement member. Further, the cocking seat 10 of Jorgensen is not concurrently forced, along with the lancet into the open interior of the housing 30. More simply explained, there is no continuous driving engagement of the retention member relative to the engagement member in the Jorgensen reference.

With specific regard to the breakable hinge which is also now defined as part of the engagement assembly, Applicant contends that the Jorgensen reference would be rendered inoperable with the provision of any type of breaking hinge as now defined by Applicant's amended, independent claim 14. As is most evident, the Jorgensen reference is not necessarily

structured or intended to prevent a reuse thereof. As a result, the inclusion of a breakable hinge would, as set forth above, be the hindsight knowledge and practice of Applicant's invention. With specific reference to the Czernecki et al. reference, the structure disclosed therein relates to a **pre-cocked lancet** device retained in the pre-cocked position by wings 11. As a result, Czernecki et al. is absent a single use, breakable hinge which serves to removably or detachably connect the engagement member to a remainder of the lancet and further serves to maintain the driving engagement of the cocking seat with the engagement member by interaction of the retention member and the engagement member. Simply put, Czernecki et al. is absent any disclosure or suggestion of a "cocking seat" and as a result, Czernecki et al. is absent a breakable hinge having a reduced thickness section structured to break when it is in deforming relation to a release element.

Conclusion.

Accordingly, Applicant's invention is specifically defined by the single, amended independent claim 14 as set forth in detail above. The deficiencies of the Jorgensen and Czernecki et al. references, considered either singularly or in

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combination with one another, as also set forth above, suggests that the Examiner may wish to reconsider the relevancy of the cited references as applied by the Examiner.

Based on the above amendments and remarks reconsideration of this application is hereby requested. It is believed that this application is now in condition for allowance and such action is respectfully requested.

In addition, a request for an appropriate extension of time is enclosed herewith along with the corresponding PTO fee. In the event that any additional fee may be required by the filing of this paper, the Commissioner is hereby authorized to charge any fees and/or credits to our **Deposit Account No. 13-1227**.

Respectfully Submitted,

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